

## **FISCAL NOTE**

### **SB 2582 - HB 2663**

February 24, 2006

**SUMMARY OF BILL:** Creates a new Class B felony offense of “statutory rape by an authority figure.” Requires convicted offender to serve entire sentence, undiminished by sentence reduction credits, and mandates the offender is ineligible for diversion or probation.

### **ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$6,293,900 / Incarceration\***

Assumptions:

- According to the Administrative Office of the Courts, 202 persons were convicted of statutory rape in 2004. (An average of 204 persons have been convicted of this offense over the past five years.)
- According to the Department of Correction (DOC), 119 of the 202 persons convicted in 2004 were incarcerated. The remaining 83 received a sentence other than incarceration.
- For comparison purposes, according to DOC, 14 of 68 sexual battery offenses resulting in incarceration in 2004 were for sexual battery by an authority figure (20.6%). Applying the same ratio to the new offense of statutory rape by an authority figure, 20.6% of statutory rape convictions will be for the new offense.
- According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past 10 years.
- Twenty-three persons who would be incarcerated for statutory rape under current law will be convicted of the offense of statutory rape by an authority figure in the first year. Population growth of 1.09 percent per year will result in three additional offenders serving additional time in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based upon 26 offenders serving additional time on their sentences in the tenth year after enactment of this bill.
- Twenty-five offenders will serve an additional 7.7 years (an increase from 0.3 years for statutory rape to 8.0 years for statutory rape by an authority figure). According to DOC, the average operating cost per inmate per day for calendar year 2006 is \$50.02. The cost per inmate at

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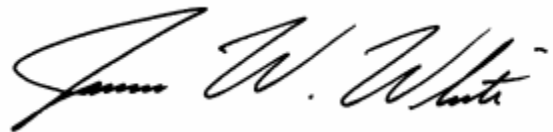
0.3 years is \$5,481.19 (\$50.02 x 109.58 days). The cost per inmate at 8.0 years is \$146,158.44 (\$50.02 x 2,922 days). The additional cost from increasing the average sentence length from 0.3 years to 8.0 years is \$140,677.25 (\$146,158.44 - \$5,481.19). The total additional operating cost for 25 offenders per year is \$3,516,931.25 (\$140,677.25 x 25).

- An additional seventeen persons will be incarcerated in the first year for the offense of statutory rape by an authority figure who would have received a non-incarceration sentence for statutory rape under current law. Population growth of 1.09 percent per year will result in two additional offenders serving time in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. §9-4-210, is based upon 19 offenders serving time in the tenth year after enactment of this bill.
- An additional nineteen offenders who would have received a non-incarceration sentence under current law will serve 8.0 years for this offense. The cost per inmate at 8.0 years is \$146,158.44 (\$50.02 x 2,922 days). The total operating cost for 19 offenders is \$2,777,010.36 (\$146,158.44 x 19).
- Combining the cost of persons who will serve additional time on their sentences (\$3,516,931.25) and the cost of persons who are not currently incarcerated (\$2,777,010.36), the total additional incarceration cost is \$6,293,941.61.

*\*Tennessee Code Annotated, Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a large initial "J" and "W".

James W. White, Executive Director